

**CHIROPRACTIC EXAMINING BOARD
MINUTES
February 24, 2005**

PRESENT: Steven Conway, Susan Feith, Char Glocke, Wendy Henrichs, James Weber, Steven Silverman

EXCUSED: None

STAFF PRESENT: Jeff Scanlan, Bureau Director of Health Service Professions, Tom Ryan, Bureau Director Health Professions; Dennis Schuh; Legal Counsel, Gina York, Bureau Assistant, and Division of Enforcement and other staff

GUESTS: Sherry Walker, WCA; Russ Leonard, WCA; Anita Manne, NWHSU Nicole Boryczka, WPTA; Jeremy Levin, WI Medical Society; Laurie Mueller, Palmer College; Sharon Whitney, Palmer College

CALL TO ORDER

James Weber, Vice Chair, called the meeting to order at 8:00 a.m. A quorum of six members was present.

APPROVAL OF AGENDA

Additions to the Agenda:

- Open Session: After Presentation of Proposed Stipulations – Add Presentation of Screening Procedures DOE
- Open Session: After Item C. – Add Scope Statement Review Cold Laser Therapy CE
- Open Session: Under Informational Items – Add FYI: Correspondence FCLB Regarding Bylaws and Elected Offices

MOTION: Wendy Henrichs moved, seconded by Steven Conway, to approve the agenda as amended. Motion carried unanimously.

ELECTION OF OFFICERS

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to nominate James Weber for Chair. Motion carried unanimously.

MOTION: Steven Conway moved, seconded by Steven Silverman, to nominate Wendy Henrichs for Vice Chair. Motion carried unanimously.

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to nominate Steven Silverman for Secretary.

APPROVAL OF MINUTES OF NOVEMBER 11, 2004

Amendments to the Minutes:

None.

MOTION: Wendy Henrichs moved, seconded by Char Glocke, to approve the November 11, 2004 minutes as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Tom Ryan, Bureau Director Health Professions, introduced the Board's new Bureau Director, Jeff Scanlan. Mr. Ryan provided an annual review of department policies with the Chiropractic Examining Board at today's meeting. They were as follows:

- A) Travel Rules and Policies: Annual meetings, intent to travel, In-State and Out-of-State travel were discussed and handouts were provided indicating the allowances for travel and the limitations for in-state and out-of-state travel. The Board gets one annual meeting a year in which a designee can attend. Board approval for attendees to such annual meetings is required and paperwork for the intent to travel would need to be completed and submitted prior to attending.
- B) The Hotel Policy: This policy was reviewed with the Board along with the hotel room reservations currently made for 2005 by Roxanne Peterson. The hotel policy is as follows:

DEPARTMENT POLICY

1. If the Board Member is not going to use the reserved hotel room, it is the **responsibility of the Board Member** to cancel the room by calling the hotel themselves. If the room is not cancelled, the Board Member would be responsible to pay the bill.
2. If we cancel a meeting because of lack of quorum or no business, it should be our responsibility to cancel any room reservations.

C) The Quorum Confirmation Policy: This policy was reviewed with the Board and it was clarified with them that if we do not hear from Board members we will assume they will be attending the meeting. We will not be checking for a quorum each time. Only if we are contacted by two or more individuals indicating they will not be able to attend an upcoming scheduled meeting will we contact Board members to verify a quorum.

The Board roster was routed to all members for review and revision of existing information. This document will be forwarded to Roxanne Peterson who will make the necessary revisions as indicated at today's meeting.

COPY OF APPROVED 2005 MEETING DATES

The Board received a copy of their approved 2005 meeting dates. The Board requested to change the July 28, 2005 meeting date to August 4, 2005. Jeff Scanlan will share this request with Roxanne Peterson to make the meeting date change, to schedule a conference room, and to please notify staff of any change in screening sessions this date change may affect.

PRESENTATION OF PROPOSED STIPULATIONS

There were three stipulations presented to the Board at today's meeting for the following individuals Barbara Bergman, D.C. (01 CHI 057); Jeffrey Mason, D.C. (01 CHI 015); James R. Bowman, D.C. (LS 0412015 CHI). Steven Conway was not present during presentation of stipulations to the Board.

**PRESENTATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED
AFTER MAILING OF AGENDA**

None.

PRESENTATION OF SCREENING PROCEDURES DOE

Michael Berndt, DOE Supervisor and Eric Callisto, DOE Division Administrator, informed the Board on the bypass procedure in which a case would not go to the screening committee for review and opening. The Department has a procedure and strict criteria on how a case would qualify for bypassing. The decision is made by the Board's screening attorney. For the Chiropractic Examining Board this individual is Jack Zwieg. He would review the case and criteria and make a determination if it qualifies for bypassing the screening committee. If there is a need for professional expertise advice, the DOE Attorney will make contact for a consultation. Mr. Callisto and Mr. Berndt addressed specific concerns from the Board surrounding their caseload and the handling of their cases, lack of consultation with case advisors, and enforcement staff ignoring recommendations of case advisors when made. The Board expressed that they would like cases on the summary report to reflect any movement made on them to ensure cases are being tracked and worked on. Mr. Callisto reaffirmed with the Board that he has encouraged DOE Staff to contact and consult with case advisors to come up with a fair and just resolution to a case. If this is not occurring, then this problem should be brought to his attention. When there is a disagreement on a case and a resolution cannot be reached, the case will come before the Board for a recommendation. Please keep in mind that DOE staff have often negotiated with the opposing legal representation and will make recommendations upon those negotiations. Mr. Callisto will continue to keep the Board abreast of any future developments that may affect the handling of the Board's cases.

REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES AND PRESS RELEASES DENNIS SCHUH

The Board reviewed the summary reports with their Legal Counsel at today's meeting. The Board had some questions regarding the pending rules listed on this report. Dennis Schuh will prepare a summary for the next Board meeting regarding the outstanding rules listed on the January 7, 2005 summary report.

SCOPE STATEMENT REVIEW COLD LASER THERAPY CE

The Board reviewed the scope statement regarding cold laser at today's meeting. Steven Conway was not present and did not participate in this discussion. Jeff Scanlan, Bureau Director, shared that he did a five state analysis of surrounding states to see what other states are doing regarding cold laser. After some further discussion, the Board took the following action.

MOTION: Wendy Henrichs moved, seconded by Steven Silverman, to adopt and publish the scope statement dealing with adequate education prior to treatment. Abstained – Steven Conway. Motion carried.

Dennis Schuh, Legal Counsel, will prepare draft language for the next meeting of the Board.

STATUS OF RULES PERTAINING TO QUALIFICATIONS FOR INSTRUCTORS

Dennis Schuh, Legal Counsel, shared with the Board that he had consulted with the Department's head legal counsel regarding the existing rules pertaining to qualifications of instructors. Attorney Schuh informed the Board that according to head legal their existing rules covers the Board's ability to determine whether to approve a course, and in this approval process, it includes the approval of the instructor and their qualifications. Therefore, the rules would not need to be revised.

DISCUSSION AND REVIEW OF INFORMATION REGARDING ANODYNE THERAPY

The Board reviewed and discussed the correspondence and materials submitted regarding anodyne therapy. After a lengthy discussion, regarding this issue the Board took the following action.

MOTION: Steven Conway moved, seconded by Susan Feith, that Dennis Schuh, Legal Counsel, will contact the Los Angeles Chiropractic College and Parker College to determine if this device is being taught and upon receipt of proof, Legal Counsel will respond to Advance Chiropractic, S.C. on behalf of the Board. Motion carried unanimously.

DISCUSSION REGARDING CMT CODES AND IF THEY ARE WITHIN THE SCOPE OF PRACTICE

The Board reviewed the information and discussed the CMT codes in question with legal counsel. After the Board's discussion it was determined that the drawing blood and analysis is within the scope of practice and Dennis Schuh, Legal Counsel, will respond on behalf of the Board. .

ESTABLISHMENT OF A PROCEDURE FOR HANDLING OF THE PRECEPTORSHIP APPLICATIONS

Dennis Schuh, Legal Counsel, informed the Board that due to possible upcoming budget cuts and the future availability of legal staff the Department is looking to areas that may be scaled back or eliminated. The Department would like the Board's input on whether to continue the Chiropractic Preceptorship Program. After a lengthy discussion, the Board shared with Attorney Schuh that a student doctor in their last trimester can do a preceptorship. This is very valuable to the Chiropractic profession and instrumental in obtaining relevant experience in the field. Attorney Schuh shared that at this time the procedure is that individuals choosing to participate

in a preceptorship must contact the Department 45 days prior to beginning a preceptorship. He also reviewed the language in the Statutes regarding preceptorships, which may need to be changed. The Board requested that the preceptorship program continue and is open to modifying the procedure for handling preceptorships. Attorney Schuh will share this information with the Department and will provide an update to the Board at the next meeting.

PRECEPTOR APPROVALS

The Board reviewed the list of preceptors provided by Julie Reimann, Credentialing, for the Board's approval. The list included the following individual(s): Lisa P. Sadowski, D.C.

MOTION: Steven Conway moved, seconded by Char Glocke, to approve the preceptors presented at the February 24, 2005 meeting. Motion carried unanimously.

PRECEPTOR APPROVAL FOR REQUESTS RECEIVED AFTER THE PRINTING OF THE AGENDA

None.

REQUEST FOR APPROVAL OF CHIROPRACTIC ASSISTANT DELEGATION MILLER CHIROPRACTIC CLINIC

The Board reviewed the request submitted by Miller Chiropractic Clinic regarding chiropractic assistant delegation and consulted with their Legal Counsel, Dennis Schuh, who will respond on behalf of the Board. He will answer the questions indicated in the materials (i.e. the x-ray question the answer is no, etc). Attorney Schuh will request the individual to submit her transcript and course syllabus and refer her to the specific statutes 10.03 pertaining to this issue.

CORRESPONDENCE FROM WCA REGARDING BOUNDARY AND ETHICS TRAINING

Russ Leonard, WCA, shared with the Board concerns surrounding boundary and ethics training. After some discussion Mr. Leonard recommended to the Board that they would like WCA and the Board to first rewrite the rules and secondly to vigorously enforce them. WCA informed the Board that they often become aware of a possible violation when someone makes a complaint to them. The Board strongly encouraged WCA to report such possible violations to the Department or Board so it can investigate such complaints to verify whether a violation has occurred. Mr. Leonard recommended that WCA educate their members and for WCA to consult with the

Chiropractic Examining Board's legal counsel to verify if their education materials adequately reflect what the Board believes to be the interpretation of the law. Dennis Schuh, Legal Counsel, advised the Board that this issue could be placed on the agenda for the next Board meeting to allow further discussion and sufficient time to explore possible options on this topic. The Board agreed and requested this topic be added to the next meeting agenda and Jeff Scanlan will provide notification to WCA that this topic is scheduled to be addressed.

CORRESPONDENCE FROM ZELM CHIROPRACTIC REGARDING COLD LASER

Noted.

CE COURSE APPROVAL REQUEST FROM UNIVERSITY OF BRIDGEPORT

The Board reviewed and discussed the materials submitted by the University of Bridgeport regarding the Neuro Emotional Technique (NET) Seminar and took the following action.

MOTION: Wendy Henrichs moved, seconded by Steven Silverman, to not approve the Neuro Emotional Technique (NET) seminar.
Steven Conway-Abstained. Motion carried.

**DISTANCE LEARNING CONSIDERATIONS AND TO DETERMINE
IF A RULE IS NEEDED - BARBARA SHOWERS**

Barbara Showers, Office of Education and Examinations, did a review of the rules and criteria regarding distance learning with the Board. Dr. Showers identified some areas that the Board may want to clarify such as a definition for "distance education" etc. The Board will consider the information provided by Dr. Showers and will consult with Dennis Schuh, Legal Counsel to make a determination if a rule will be needed or if it is covered under an existing rule.

**PRESENTATIONS FROM NORTHWESTERN COLLEGE, PALMER COLLEGE,
AND WISCONSIN CHIROPRACTIC ASSOCIATION (WCA)**

Anita Mann, Director of Distance Learning, at Northwestern College presented to the Board a PowerPoint presentation sharing advantages and disadvantages of distance learning. They also have an advisory committee, which does periodic reviews of courses and issues surrounding distance learning. Ms. Mann shared that all instructors are available for questions and verification of attendance and security has been addressed through strict criteria in allowing access to their courses. Examinations are required for all courses.

Laurie Mueller, Director of Continuing Education, at Palmer College presented to the Board specifics regarding their distance-learning program. Ms. Mueller provided a handout to the Board and spoke to the main points outlined in her document. Palmer College's online learning program features lectures, specific assignments and online journaling. They also offer a grade book session where the learner and the instructor can view completed work, test scores, and time spent in the course on specific units. The participants communicate directly with the instructor via email to address questions and seek clarification as needed.

Russ Leonard, WCA, presented his points of view on distance learning and compared the types of courses and articles that are available to the profession. Mr. Leonard shared that the association is working on distance learning because this will be the wave of the future. James Weber, Chair, opened the floor for discussion and encouraged questions among representatives from colleges, WCA, and Board members on this topic.

DISCUSSION AND REVIEW OF CORRESPONDENCE RECEIVED REGARDING ON-LINE CE

The Board reviewed and discussed the correspondence surrounding on-line continuing education at today's meeting and Dennis Schuh, Legal Counsel, will respond on behalf of the Board.

DISCUSSION REGARDING CE SPONSOR AND USE OF QUALIFIED SUBSTITUTE INSTRUCTORS

This topic was discussed by the Board and it was determined that if a need arose to have a substitute instructor the following should occur. The sponsor should provide in writing to the Department a notification regarding the substitution of an instructor and needed specifics to make a determination. James Weber, Chair of the Chiropractic Examining Board, will review the notification and make a decision of whether it is approved.

INFORMATIONAL ITEMS

All informational items were noted. The Board took action on the Correspondence from NBCE Annual Luncheon and Business Meeting of State Delegates.

MOTION: Char Glocke moved, seconded by Susan Feith, to designate Steven Conway as the delegate to the NBCE Annual Luncheon and Business Meeting. Motion carried unanimously.

MOTION: Char Glocke moved, seconded by Wendy Henrichs, to designate James Weber as the alternate delegate to the NBCE Annual Luncheon and Business Meeting. Motion carried unanimously.

CORRESPONDENCE AND PHONE INQUIRIES BY LEGAL COUNSEL

There were no correspondence or phone inquiries presented to the Board at today's meeting.

VISITOR COMMENTS

Noted.

CONVENE TO CLOSED SESSION

MOTION: Wendy Henrichs moved, seconded by Steven Conway, to adjourn to closed session pursuant to Wisconsin state statutes 19.85(1)(a)(b)(f) and (g) to consult with Legal Counsel regarding the Suit by WCA, deliberate on proposed stipulations, deliberate on proposed administrative warnings, deliberate on monitoring issues, application review, monitoring report and DOE case status reports. Motion carried by roll call vote: Steven Conway-yes; Susan Feith-yes; Char Glocke-yes; Wendy Henrichs-yes; James Weber-yes; and Steven Silverman-yes.

Open Session recessed at 12:20 a.m.

RECONVENE TO OPEN SESSION

MOTION: Char Glocke moved, seconded by Wendy Henrichs, to reconvene into open session at 2:14 p.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

MONITORING

APPEARANCES BEFORE THE BOARD

HAROLD DYKEMA

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to deny his request for reinstatement of licensure, to deny his petition to lift the suspension, and to request Dr. Dykema to submit in writing 3 weeks prior to the scheduled Board meeting the following; without including N.E.T. in your practice, list and describe all diagnostic and treatment techniques that you will utilize in your office, and request him to appear before the Board. James Weber did not participate during the appearance, deliberation, or voting at today's meeting. Abstained- James Weber. Motion carried.

REQUESTS FOR REINSTATEMENT OF FULL LICENSURE

MICHAEL LABLANC

MOTION: Wendy Henrichs moved, seconded by Char Glocke, to deny the request for full licensure regarding Michael LaBlanc. Motion carried unanimously.

REQUESTS FOR THREE-MONTH STAY OF SUSPENSION

JOHN ADERHOLDT

MOTION: Susan Feith moved, seconded by Wendy Henrichs, to grant a three-month stay to John Aderholdt, D.C. Motion carried unanimously.

**DELIBERATION OF MONITORING ISSUES THAT MAY BE RECEIVED AFTER
MAILING OF AGENDA**

None.

APPLICATION REVIEWS BY ENDORSEMENT

BRAD A. FINER, DC

MOTION: Wendy Henrichs moved, seconded by Susan Feith, to grant a license to Brad Finan, D.C. Motion carried unanimously.

APPLICATIONS RECEIVED AFTER THE MAILING OF THE AGENDA

None.

STIPULATIONS

BARBARA BERGMAN, D.C.

MOTION: Susan Feith moved, seconded by Steven Silverman, to reject the stipulation in the matter of Barbara Bergman, D.C. Reason for Denial: Due to no costs being assessed and the lack of a clear statement of the offense. Steven Conway was not present during deliberation and did not participate in voting. Steven Conway- Abstained. Motion carried.

JEFFREY MASON, D.C.

MOTION: Char Glocke moved, seconded by Wendy Henrichs, to adopt the Findings of Fact, Conclusions of Law, Order, and Stipulation in the matter of Jeffrey Mason, D.C. Motion carried unanimously.

JAMES R. BOWMAN, D.C.

MOTION: Char Glocke moved, seconded by Steven Silverman, to adopt the Findings of Fact, Conclusions of Law, Order, and Stipulation in the matter of James Bowman, D.C. Motion carried unanimously.

**DELIBERATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED
AFTER MAILING OF THE AGENDA**

None.

**DELIBERATION OF PROPOSED ADMINISTRATIVE WARNINGS RECEIVED
AFTER MAILING OF AGENDA**

None.

DIVISION OF ENFORCEMENT – CASE STATUS REPORT

There were no case closings by DOE at today's meeting.

CONSULT WITH LEGAL COUNSEL

The Board consulted with Dennis Schuh, Legal Counsel, throughout today's meeting as needed.

OTHER BOARD BUSINESS

The Board received the resignation of Dr. James Rosemeyer from the Board. A discussion was held regarding the Screening Committee and the Board assigned Susan Feith, Steven Conway, and Steven Silverman to the screening panel.

ADJOURNMENT

MOTION: Wendy Henrichs moved, seconded by Char Glocke, to adjourn the meeting at 2:18 p.m. Motion carried unanimously.